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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,849	06/27/2005	Yoshimi Baba	CS-08-050627	2229
22712	7590	05/01/2007		
PAUL A. GUSS PAUL A. GUSS ATTORNEY AT LAW 775 S 23RD ST FIRST FLOOR SUITE 2 ARLINGTON, VA 22202			EXAMINER WHITE, DWAYNE J	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 05/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/540,849

Applicant(s)

BABA, YOSHIMI

Examiner

Dwayne J. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,8,9 and 11 is/are rejected.
- 7) ☒ Claim(s) 3,6 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/5/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Response to Amendment***

Applicant's amendment filed 30 March 2007 has been considered. Claims 1, 3, 4, 6 and 8-11 are pending. While Applicant's amendment to the claims overcomes the rejections made in the previous Office Action, consideration of the IDS filed 05 March 2007 has presented new grounds for rejection. Therefore, due to the newly available prior art, prosecution has been reopened.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Crompton (3,339,078).

Crompton discloses a wind power generation device comprising: a substantially cylindrical duct 24; an impeller having a plurality of blades 13 protruding outward, the impeller being rotatable around a duct axis; and a nacelle 54 that constitutes a streamlined pencil body together with the impeller and houses a generator 41 that uses a torque of the impeller, wherein the duct has a side wall with a wing-shaped cross section, so as to be able to produce a reduced pressure area at a rear of the duct and prevent generation of swirl at the rear of the duct (Column 2, lines 21-30), wherein the pencil body is provided such that a forward end thereof is disposed inside of the duct and a rear end thereof protrudes outwardly from a rear end of the duct (See Figure 1), so as to be

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close to a tip of the reduced pressure area produced at the rear of the duct, wherein blades of the impeller are provided in a maximum wind speed area in the duct (See Figure 1) wherein a chord of the wing-shaped cross section of the side wall of the duct is inclined at a predetermined angle to the duct axis, and wherein a protruding length of the rear end of the pencil body from the rear of the duct is adjusted according to the position of the tip of the reduced pressure area, which changes depending on the angle, and wherein the predetermined angle is a positive angle such that a leading edge of the chord at the front end of the duct is separated a greater distance from the duct axis than a trailing edge of the chord at the rear end of the duct (See Figure 1; the leading edge of the duct clearly has a larger diameter than the trailing edge).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crompton. Crompton discloses all of the claimed subject matter except for specific position of the impeller with respect the minimum inner diameter portion of the duct.

Since applicant has not disclosed that having the impeller at the specific location solves any stated problem or is for any particular purpose above the fact that the location is within the minimum inner diameter portion of the duct and thus at a location of maximum flow speed and it appears that the impeller of Crompton would perform equally well with an impeller located as

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claimed by applicant, it would have been an obvious matter of design choice to modify the impeller of Crompton by utilizing the specific location as claimed for the purpose of positioning the impeller at a position of maximum flow speed within the duct.

## **CONCLUSION**

### ***Allowable Subject Matter***

Claims 3, 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

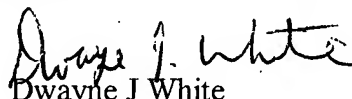
### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne J. White whose telephone number is (571) 272-4825. The examiner can normally be reached on 7:00 am to 3:30 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dwayne J White  
Patent Examiner  
Art Unit 3745

DJW